

REMARKS

This is in response to the final rejection dated July 18, 2006. Reconsideration of the Examiner's rejection of the claims 1-10 presented in the last amendment on the basis of obviousness over the Glaxo publication WO 01/84108 (which is noted as being U.S. Patent No. 6,915,714) is respectfully requested.

In rejecting claims 1-10 as being obvious over the Glaxo teachings, the Examiner indicated that the Glaxo method comprised transferring collection compartments to a work station that has an upper member and a lower member that encased the collection compartments in individual compartments. It is believed that the disclosure and teaching of Glaxo is to transfer each of the collection compartments **individually to a work station**. In the Glaxo publication, the compartments are separated individually after impaction of the particles because they are stacked one on top of each other. There is absolutely no teaching of mounting a plurality of compartments from an impactor in side by side relationship on a manifold and transferring the plurality all at once to a processing device.

It is respectfully pointed out that in Glaxo each of these individual compartments has to be placed individually on the Glaxo lower member, and there is no teaching of having a common manifold that mounts a number of compartments and is used in the impactor. The individual compartments may be added to one of several individual locations on the lower member, but this is individually done. The Examiner acknowledged that Glaxo did not teach moving the compartment manifold and service manifold as a unit under power to enhance dissolution of particles in each component. It is respectfully pointed out that movement as a unit is a distinct part of the method claim, and whether or not it is well known that particles dissolve faster into a solution when agitation is applied to a container, or not, that knowledge does not render obvious the teaching of claims which relate to moving all of a plurality of compartments on a manifold, over to a service manifold or processing device and then agitating them as a unit.

Again, it is pointed out that claim 1 describes processing of particles that have been classified into separate size ranges in an impactor, with each size range of particles being in one of a plurality of separate impactor compartments supported side by side in a common compartment

manifold supported in the impactor. The next step in claim 1 is to move “the compartment manifold and supported separate compartments from the impactor as a unit to a service manifold”. The service manifold overlies all of the compartments and the compartment manifold and service manifold are secured together. In other words, there are no upper and lower clamping plates, but only the service manifold and the compartment manifold that was supported in the compactor for the classification of particles.

With this background, it is respectfully requested that the Examiner reconsider the holding of obviousness. The Office Action stated “it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Glaxo to allow the impactor components to be moved all at once to the service manifold for particle classification because it would be a tedious operation if one were to classify thousands of impactor compartments by moving them one by one to the service manifold”. The Glaxo publication teaches only that “tedious” individual movement. The only place where a plurality of compartments are moved as a unit is in the present disclosure.

The holding is as recited above on its face is based on hindsight reasoning because there is not even a remote suggestion or teaching in the Glaxo disclosure of moving more than one compartment over to the processing station. There appears to be about 7 stages in Glaxo, each individually moved.

The only teaching of having a number of compartments supported on a manifold that holds a plurality of compartments as a unit for classification and then after classification moving that compartment manifold over to a service manifold for further processing, namely the adding of a solution for dissolving material and then agitating the service manifold and the compartments as a unit, is in the present application.

It should be understood that the Applicant does not contest the Examiner’s statement that it is well known that dissolving particles when agitating aids in the dissolution of particles, but it is vigorously contested that the teaching of Glaxo in any way suggests the method of claim 1.

The process of transporting or moving one compartment at a time from an impactor that is vertically stacked as shown in the Glaxo publication to some type of processing device for

dissolving particles is the way it has been done for a long time, and Glaxo does not break that mold.

The present application does in fact break that "tedious" job and teaches an entirely new method for operating more efficiently, more precisely, and in a better way.

It is respectfully pointed out that hindsight reasoning should not enter into the determination of obviousness, and since the only place that the mounting of a plurality of a compartment on a support, called a manifold, and then placing the manifold and all of the compartments as a unit onto a service manifold to dissolve particles to obtain samples, is in the present specification. The teaching in the Applicant's disclosure cannot be used to arrive at a holding of obviousness.

Therefore, favorable action is respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELDY, P.A.

By 

Nickolas E. Westman, Reg. No. 20,147
900 Second Avenue South, Suite 1400
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

NEW:rkp